IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 6711 of 2001

Between:

Boddepalli Sundararao, S/o. Late Ramana,
R/o. D.No.12-14-20/3, LBS Colony,
Srikakulam - 532 001.

..... PETITIONER

AND

1 The Director General & Inspector General of Police of State of Andhra Pradesh, Hyderabad-4, Pin: 500 004.
2 The DIG of Police,
Uplands, Visakhapatnam-3,
Pin: 530 003.
3 The Commissioner of Police,
Visakhapatnam-1, Pin: 530 001.
4 The Superintendent of Police,
Srikakulam, Srikakulm District,
Pin: 532 001.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order, or direction more particularly one in the nature of a Writ of Mandamus, directing the Respondents to take all necessary steps, for apprehension and production of the accused-person whose description is given here-under before the Court of the Judicial 1st Class Magistrate, Srikakulam within one month from the date of order, declaring, that the non-apprehension of the said person since a pretty long time is highly unjust, improper, contrary to law and violative of the fundamental rights and the principles of natural justice, resulting in failure and breaking down of justice and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.D.RAMALINGA SWAMY
Counsel for the Respondents: GP FOR HOME

The Court made the following :

ORDER:

The petitioner filed a private complaint on the file of the Court of the Judicial Magistrate of First Class, Srikakulam, under Sections 130 and 142 of the Negotiable Instruments Act, 1881 as amended by Bank's Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 (for short 'the N.I Act'). The learned Magistrate took the compliant on the file and ordered summons to the accused namely, Madala Satyanarayana Murthy, S/o.Venkanna, Managing Partner, Bhagyasri Chits and Finance near Chandramahal, Srikakulam. As the summons remained unserved at least on nine occasions, the learned Magistrate ordered Non-Bailable warrant on 09.06.2000. The same was not executed by the Police in accordance with law in due course of time. Therefore, on 09.11.2000 and 19.02.2001 the learned Magistrate issued fresh Non-Bailable Warrants. In spite of the same, it is curious that the fourth respondent would not see that Non-Bailable Warrant is duly served on the accused in a criminal case. Therefore, the present writ petition is filed seeking a direction to the respondents namely 1. The Director General and Inspector General of Police, State of A.P., Hyderabad, 2. The Deputy Inspector General of Police, Uplands, Visakhapatnam, 3. The Commissioner of Police, Visakhapatnam and 4. The Superintendent of Police, Srikakulam District, Srikakulam.

The learned counsel for the petitioner, Sri.D.Ramalinga Swamy, submits that the accused in C.C.No.256 of 1998 is very much available in Srikakulam as well as Visakhapatnam, where he is running Chits business in the name and style of M/s. Bhagyasri Chits and Finance. Therefore, there is no reason as to why the respondents could not execute long pending Non-Bailable Warrant. Under section 72 of the Code of Criminal Procedure, 1973, a warrant of arrest whether it is bailable or non-bailable is ordinarily issued to the Police for immediate execution. If the same is not executed, it is always permissible for the learned Magistrate to issue such warrant to another person for executing the same. Therefore, the writ petition is disposed of in the following manner.

The learned Judicial Magistrate of First Class, Srikakulam, before whom C.C.No.256 of 1998 is pending may issue a fresh Non-Bailable Warrant to the accused executable by the Commissioner of Police, Visakhapatnam and/or Superintendent of Police, Srikakulam District, within a period of four weeks from the date of receipt of a copy of this order. If the same is not executed, the learned Magistrate may pass appropriate orders and give liberty to the petitioner-the complainant in the C.C to execute the warrant with the help of the Police who shall be directed to provide security to the petitioner. Liberty is also given to the petitioner to approach the Court of the Judicial Magistrate of First Class, Srikakulam, with a copy of this order and move the learned Magistrate for appropriate orders.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO,J)

21.06.2005

vs

To

1 The Director General & Inspector General of Police of State of Andhra Pradesh, Hyderabad-4, Pin: 500 004.
2 The DIG of Police,
Uplands, Visakhapatnam-3,

Pin: 530 003.

3 The Commissioner of Police,
Visakhapatnam-1, Pin: 530 001.

4 The Superintendent of Police,
Srikakulam, Srikakulm District,
Pin: 532 001.

5 Two C.D.Copies.